97-84048-25

Hart, Hastings Hornell

Sterilization as a practical measure

New York City

1913

97-84048-25
MASTER NEGATIVE #

COLUMBIA UNIVERSITY LIBRARIES
PRESERVATION DIVISION

BIBLIOGRAPHIC MICROFORM TARGET

ORIGINAL MATERIAL AS FILMED - EXISTING BIBLIOGRAPHIC RECORD

308
Z
Box 132

Hart, Hastings Hornell, 1851-1932.

... Sterilization as a practical measure; a paper read before the American prison association at Baltimore, November 12th, 1912. By Hastings H. Hart ... New York city, The Dept. of child helping of the Russell Sage foundation, 1913.

11 p. 22cm. (Russell Sage foundation, New York. Pamphlet. CH1 no. 11)

1. Sterilization.

E 14-1615

Library, U. S. Bur. of Education HV4989.H26

ONLY FD

RESTRICTIONS ON USE: *Reproductions may not be made without permission from Columbia University Libraries.*

TECHNICAL MICROFORM DATA

FILM SIZE: 35 MM REDUCTION RATIO: 10:1 IMAGE PLACEMENT: IA (IIA) IB IIB

DATE FILMED: 3-24-97 INITIALS: RB

TRACKING # : 22679

FILMED BY PRESERVATION RESOURCES, BETHLEHEM, PA.

BIBLIOGRAPHIC IRREGULARITIES

MAIN ENTRY: Hart, Hastings Hornell

Sterilization as a practical measure

Bibliographic Irregularities in the Original Document:

List all volumes and pages affected; include name of institution if filming borrowed text.

_____ Page(s) missing/not available: _____

_____ Volume(s) missing/not available: _____

__X__ Illegible and/or damaged page(s): page 11

_____ Page(s) or volume(s) misnumbered: _____

_____ Bound out of sequence: _____

_____ Page(s) or volume(s) filmed from copy borrowed from: _____

_____ Other: _____

_____ Inserted material: _____

TRACKING#: MSH22679

No. 11.

Sterilization as a Practical Measure

A paper read before the

American Prison Association at Baltimore

November 12th, 1912.

BY HASTINGS H. HART, LL. D.
Director of the Department of Child-Helping of the
Russell Sage Foundation

PUBLISHED BY THE
DEPARTMENT OF CHILD HELPING OF THE
RUSSELL SAGE FOUNDATION
105 EAST 22ND STREET
January, 1913. NEW YORK CITY

STERILIZATION AS A MEASURE FOR THE EXTIRPATION OF DEFECTIVE DELINQUENCY.

Sterilization is advocated by many penologists and alienists as a preventive measure. It is advocated by that comparatively small number in this country who believe in the existence of a criminal type and the direct heredity of criminality. It is advocated also by that larger number who do not believe in criminal heredity, but who believe in the heredity of feeble-mindedness, epilepsy and insanity, from which develop the defective delinquent.

Laws providing for the sterilization of certain classes have been passed by eight States: Indiana (1907), Connecticut, California and Washington (1909), Nevada, New Jersey and Iowa (1911), and New York (1912). Most of these acts have followed the general trend of the Indiana law, which reads as follows:

"An Act to prevent procreation of confirmed criminals, idiots, imbeciles and rapists; providing that superintendents and boards of managers of institutions where such persons are confined shall have the authority and are empowered to appoint a committee of experts, consisting of two physicians to examine into the mental condition of such inmates.

"Whereas, Heredity plays a most important part in the transmission of crime, idiocy and imbecility;

"Therefore, Be it enacted by the General Assembly of the State of Indiana, That on and after the passage of this Act it shall be compulsory for each and every institution in the State entrusted with the care of confirmed criminals, idiots, rapists and imbeciles, to appoint upon its staff, in addition to the regular institutional physician, two skilled surgeons of recognized ability, whose duty it shall be, in conjunction with the chief physician of the institution, to examine the mental and physical condition of such inmates as are recommended by the institutional physician and board of managers.

If, in the judgment of this committee of experts and the board of managers, procreation is inadvisable and there is no probability of improvement of the mental and physical condition of the inmate, it shall be lawful for the surgeons to perform such operation for the prevention of procreation as shall be decided safest and most effective. But *this operation shall not be performed except in cases that have been pronounced unimprovable:* Provided, That in no case shall the consultation fee be more than three dollars to each expert, to be paid out of the funds appropriated for the maintenance of such institution."

The New Jersey law provides that an operation for sterilization may be performed "upon any criminal who shall have been convicted of the crime of rape or of such succession of offenses against the criminal law as shall be deemed to be sufficient evidence of confirmed criminal tendencies"; also upon feeble-minded persons (including idiots, imbeciles, and morons) epileptics and other defective inmates of charitable institutions when the Board of Examiners (a special board, created by the act), "in conjunction with the chief physician of the institution, unanimously find that procreation is inadvisable and that there is no probability of such improvement as to render procreation by such inmate advisable."

The provisions of the laws passed in other States are similar to those of Indiana and New Jersey. The Connecticut law and the Iowa law impose a penalty upon a surgeon who performs such an operation upon any person outside the classes described in the act. The Iowa law adds drunkards, drug fiends and syphilitics to the classes subject to its provisions, and prescribes specifically vasectomy and ligation of the fallopian tubes as the methods of sterilization to be employed.

The objects of such sterilization laws are stated as follows, either in the acts themselves or in statements by those who advocate them:

1. To prevent criminal heredity by preventing the procreation of confirmed criminals.

2. To prevent rape and to punish rapists.

3. To prevent the inheritance of feeble-mindedness, epilepsy, etc.*

*It is rather singular that the Indiana law, the California law and the New Jersey law do not mention insanity, though in the New Jersey law it may be covered inferentially by the term "other defectives."

4. To provide "a healthful warning and deterrent for reckless sex defectives."

In order to avoid misunderstanding, it should be stated that the writer favors the sterilization of rapists, sexual perverts or degenerates, confirmed masturbators and others whose sexual tendencies call for such action for the protection of the community; but he believes that the efficacy of such sterilization laws as a means of preventing crime, insanity, feeble-mindedness, epilepsy, etc., has been greatly over-rated, and that there is no reason to anticipate that sterilization, taken by itself, will check the multiplication of these evils appreciably within the next fifty years. He believes also that much of the discussion of this subject has been positively pernicious, both in its matter and in its tendency.

The National Christian League for Promotion of Purity has published and is distributing a communication from Dr. H. C. Sharp, accompanied by a paper in which Dr. Sharp discusses and advocates the Indiana law for the sterilization of criminals and the method of sterilization, vasectomy, practiced by Dr. Sharp at the Indiana State Reformatory.

I make the following extracts from Dr. Sharp's statements:

1. He lays down the following propositions:

(*a*) "Degeneracy is a defect, and a defect differs from a disease in that it cannot be cured."

(*b*) "I am now doing the operation in my private practice for the cure of sexual neurasthenia, impotency and certain classes of enlarged prostate and seminal vesiculitis with the most satisfactory results."

(*c*) "Most of the insane, the epileptic, the imbecile, the idiotic, the sexual perverts; many of the confirmed inebriates, prostitutes, tramps and criminals, as well as habitual paupers found in our county poor asylums; also many of the children in our orphan homes, belong to the class known as degenerates."

(*d*) "The degenerate class is increasing out of all proportion to the increase of the general population."

(*e*) "We have done practically nothing in the way of providing a means by which we may beget none but sound offspring."

2. He discusses proposed methods for attaining this end, and he says: "Restricting propagation seems to be universally agreed upon as necessary for the relief of this condition. The difficulty lies in deciding upon the proper method to bring about this restriction."

He discards several proposed methods, as follows:

(*a*) "The education of public opinion, so that those who are from defective parentage shall abstain from marriage. This, to me, is even worse than absurd."

(*b*) Restrictive legislation, * * * "marriage laws * * * for the purpose of preventing marriage among defectives" have been passed in Minnesota, Michigan, Delaware, Connecticut, New Jersey, and North Dakota, * * * but unfortunately matrimony is not always necessary to propagation, and the tendency of these several different laws is to restrict procreation only among the more moral and intelligent class, while the most undesirable class goes on reproducing its kind, the only difference being that illegitimacy is added to degeneracy."

(*c*) With reference to the proposition to segregate degenerates from society in institutions he says: "This method of segregation would necessitate the expenditure of enormous sums of money to establish and maintain colonies or industrial refuges, which I believe would be a disappointment in the end. It would necessarily be a condition of restraint, and unless safely guarded as an actual prison, there would be many escapes and * * * these unfortunates * * * would resort to crime, becoming a further menace to society. Again, this method means life imprisonment for a large army of men and women who should be given an opportunity to enjoy life and liberty."

(*d*) He says: "Castration is another means that has been suggested for the purpose of preventing procreation in the unfit. * * * It causes too much mental and nervous disturbance to ever become popular or justifiable as a medical measure."

3. Dr. Sharp proposes a method which in his judgment is free from the objections which apply to all of the other proposed plans, and should be generally adopted. He says: "There is one operation that I heartily endorse as an additional punishment in certain offenses. * * * Since October, 1899, I have been performing an operation known as vasectomy, which consists of ligating and resecting a small portion of the vas deferens."

(*a*) "This operation is very simple and easy to perform without administering an anesthetic, either general or local. It requires about three minutes' time."

(*b*) "The subject is effectually sterilized."

(*c*) "The subject returns to his work immediately, suffers no inconvenience, and is in no way impaired for his pursuit of life, liberty and happiness. * * * All the other methods proposed place restrictions—and therefore punishment—upon the subject; this method absolutely does not."

(*d*) "I have 236 cases that have afforded me observation, and I have never seen any unfavorable symptoms; * * * there is no disturbed mental or nervous condition following, but the patient becomes of a more sunny disposition, brighter of intellect."

(*e*) "The patient ceases excessive masturbation."

(*f*) "The patient advises his fellows to submit to the operation for their own good. * * * We have operated on many against their will and over their vigorous protest; but in every instance, in the course of a few months following they have communicated to me their hearty approval of the operation."

(*g*) "After the vas deferens has been severed, you may by a second operation repair it and re-establish the original function."

(*h*) "Under the provision of the law, women may be subject to sterilization as well as men. The operation is almost as simple, for it consists of simply ligating the fallopian tube."

The argument of Dr. Sharp has been very widely circulated, and has apparently met with very general acceptance since laws have already been passed, following closely the Indiana law, by the seven States of Connecticut, California, Washington, Nevada, New Jersey, Iowa and New York, and in one State at least (Iowa) the two operations recommended by Dr. Sharp are specified in the act.

It is astonishing that this plan should secure such extensive adoption by legislatures in view of the fact that it has been discredited in Dr. Sharp's own State, and has been put into operation thus far in only one other State. Dr. Sharp wrote in December, 1908: "There is a law providing for sterilization of defectives in Indiana, and it is being carried out at the Indiana Reformatory. I regret very much that it is not being followed up in the other institutions of the State."

The Indiana law went into effect in 1907. The published reports of the Indiana State Reformatory show that in the fiscal year 1907-8 there were 119 operations of vasectomy in the State Reformatory. In the year 1908-9 there were 39 operations; in the year 1909-10 there was one operation; in the year 1910-11 there were none. The reason for the discontinuance of this operation, notwithstanding the fact that the law says, "it shall be compulsory for each and every institution," is that the Governor of the State of Indiana believes that the law is unconstitutional. The writer happened to be present at the performance of the single operation reported in 1910 at the time of the visit of the foreign delegates of the International Prison Congress.

In the State of Connecticut 30 men were recommended to the commission by the Warden of the State Penitentiary, but no operation has yet been performed under the law of 1909.

In California the law has gone into effect, and more than 300 operations have been performed. The secretary of the State Board of Health expressed the opinion that it is within the province of probability that a law will some day be framed which will permit certain marriages conditional upon this operation.

In Washington a decision has been rendered by the Supreme Court that the law does not prescribe "a cruel and unusual punishment," but no operation has yet been performed.

I was unable to obtain any report from Nevada.

In New Jersey no operation has yet been performed, but a test case has been prepared for presentation to the Supreme Court.

In Iowa no operation has yet been performed under the law.

In New York a commission has been appointed, but no operation has yet been performed.

In view of these facts, it would seem wise for other States to await judicial decisions and practical tests of this plan in States where the law has already been adopted, before entering upon such legislation.

There are certain objections to the method proposed by Dr. Sharp which must present themselves to any practical student:

1. The operation has little, if any, deterrent value. Dr. Sharp says in one paragraph: "There is one operation that I heartily endorse *as an additional punishment* in certain offenses"; and, in the very next paragraph: "All other methods proposed place restrictions—*therefore punishment*—upon the subject; *this method absolutely does not;*" and in another communication he calls attention to the fact that the disability can be removed by a second operation.

2. This operation, while it sterilizes the individual, does not interfere with the desire for or the practice of sexual intercourse.

3. It does not prevent the individual from committing rape.

4. It does not prevent masturbation. Dr. Sharp says: "The patient * * * ceases *excessive* masturbation."

5. It does not interfere in the slightest degree with the transmission of venereal disease.

6. It carries with it possibilities of evil which are intimated in that provision of the laws passed in Connecticut and New Jersey which make it a penal offense for a surgeon to perform the operation upon any individual outside the prescribed classes. There is unquestionably danger of the abuse of this method by wicked rakes and unscrupulous surgeons. The removal of the liability to procreation does away with one of the safeguards of society, namely the exposure and responsibility incident to parentage.

7. The plan advocated by Dr. Sharp carries with it a proposition which is so monstrous and so abhorrent that it would be incredible if we did not find it stated in cold print by Dr. Sharp. In the circular already referred to, which is being widely distributed by the National Christian League for Promotion of Purity, Dr. Sharp, after setting forth the contents and the effect of the Indiana law, says:

"This is indeed a very long step in the right direction, and will never be rescinded, for the simple reason that it is right, just to all, and humane. I would, however, carry it a little further, and make the provision in our marriage laws, that when one or both contracting parties suffer from a defect, or a chronic transmissible disease, the male should be sterilized. Then let them go on and marry; and by this means there will possibly be a support given and a protectorate thrown about some feeble-minded woman, that in any other event would become a public charge, or a prostitute, or more than likely the mother of illegitimate children."

Consider the meaning of this extraordinary declaration. The feeble-minded girl is, in physical development and inclinations, a woman; she is in mind an innocent child. When it is proposed to do violence to an innocent little child, every right-minded man, whatever may be his moral principles, springs instantly to its protection, ready to defend it with his life if necessary. A feeble-minded girl is entitled to the same chivalrous protection; the more so because her physical development exposes her to extraordinary peril. Dr. Sharp proposes to take this innocent and helpless child and hand her over bodily to a diseased rake. He says: *"When one or both contracting parties suffer from a defect or a chronic transmissible disease, the male should be sterilized. Then let them go on and marry, and by this means there will possibly be a support given and a protectorate thrown about some feeble-minded woman."* It is time that a protest was raised against this inhuman proposition. Yet it is only the expression in bald and heartless language of what society has long been doing with the thousands and tens of thousands of innocent and helpless feeble-minded girls who are allowed to be driven every year into the houses of prostitution of the United States like flocks of sheep driven to the shambles. It is time that

legislators of this country were wakened to the logical outcome of this plan, which is being so unblushingly held up for their adoption.

Sterilization is a legitimate and proper proceeding for certain classes, but the method employed should be such that it will be dreaded and not welcomed by the criminal and the degenerate, and such as to hinder and not to promote the spread of disease.

The experience of the eight States which have enacted sterilization laws indicates that the field of such legislation is necessarily restricted, and that no sterilization law can be effective until a strong public sentiment is developed to sustain the execution of such laws.

A paper on "The Extinction of the Defective Delinquent," by the same author, will be sent on request.

MSH 80679

END OF
TITLE